



1           2. Defendant acknowledges receipt of a plea agreement in this case and agrees to  
2 provide the signed, original plea agreement to the Government not later than five business days  
3 before the disposition date set by the Court.

4           3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or  
5 before **December 20, 2007**.

6           4. The material witness, Yadira Salinas-Gomez, in this case:

7           a. Is an alien with no lawful right to enter or remain in the United States;  
8           b. Entered or attempted to enter the United States illegally on or about  
9 November 19, 2007;

10           c. Was found in a vehicle driven by defendant at the Otay Mesa, California Port  
11 of Entry (POE) and that defendant knew or acted in reckless disregard of the fact that she was an  
12 alien with no lawful right to enter or remain in the United States;

13           d. Was paying \$1,200 <sup>\$1,200</sup> to others to be brought into the United States illegally  
14 and/or transported illegally to her destination therein; and,

15           e. May be released and remanded immediately to the Department of Homeland  
16 Security for return to her country of origin.

17           5. After the material witnesses are ordered released by the Court pursuant to this  
18 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any  
19 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any  
20 proceeding, including, but not limited to, motion hearings, trial, sentencing, appeal or collateral  
21 attack, that:

22           a. The stipulated facts set forth in paragraph 4 above shall be admitted as  
23 substantive evidence;

24           b. The United States may elicit hearsay testimony from arresting agents  
25 regarding any statements made by the material witness(es) provided in discovery, and such  
26 testimony shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements  
27 against interest of (an) unavailable witness(es); and,

1 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),  
2 “testimonial” hearsay statements are not admissible against a defendant unless defendant confronted  
3 and cross-examined the witness(es) who made the “testimonial” hearsay statements, defendant  
4 waives the right to confront and cross-examine the material witness(es) in this case.

5       6. By signing this stipulation and joint motion, defendant certifies that defendant has  
6 read it (or that it has been read to defendant in defendant's native language). Defendant certifies  
7 further that defendant has discussed the terms of this stipulation and joint motion with defense  
8 counsel and fully understands its meaning and effect.

9       Based on the foregoing, the parties jointly move the stipulation into evidence and for the  
10 immediate release and remand of the above-named material witness(es) to the Department of  
11 Homeland Security for return to her country of origin.

12 It is STIPULATED AND AGREED this date.

Respectfully submitted,

KAREN P. HEWITT  
United States Attorney

16 Dated: 12/6/07

*for* Caroline P. Han  
CAROLINE P. HAN  
Assistant United States Attorney

19 Dated: 11-26-07

ZANDRA L. LOPEZ  
Defense Counsel for Resendiz-Avila

22 Dated: 11-26-07

Pedro Resendiz Avila  
PEDRO RESENDIZ-AVILA  
Defendant

28 Stipulation of Fact and Joint Motion for Release of  
Material Witness(es) And Order Thereon in  
United States v. Pedro Resendiz-Avila

## ORDER

Upon joint application and motion of the parties, and for good cause shown,

**THE STIPULATION** is admitted into evidence, and

**IT IS ORDERED** that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to her country of origin.

SO ORDERED.

Dated:

12/6/07

John L. Dille  
United States Magistrate Judge